

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: MCKNIGHT, John, Crawford Reckitt Benckiser plc Group Patents Department Dansom Lane Hull HU8 7DS GRANDE BRETAGNE	TO 3.0 TO 14.19.17 CASE NUMBER 10995P1 WO DIARY RECORDS 19.17.17 Date of mailing (day/month/year) 15.07.2004	NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Rule 71.1)
Applicant's or agent's file reference 10995P1 WO/JCM	INVOICE ACKNOW	IMPORTANT NOTIFICATION
International application No. PCTGB 03/01444	International filing date (day/month/year) 02.04.2002	Priority date (day/month/year) 02.04.2002
Applicant RECKITT BENCKISER (UK) LIMITED et al.		

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes; if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

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preliminary examining authority:



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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 10995P1 WO/JCM	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA416)	
International application No. PCT/GB 03/01444	International filing date (day/month/year) 02.04.2003	Priority date (day/month/year) 02.04.2002
International Patent Classification (IPC) or both national classification and IPC A61L9/12		
Applicant RECKITT BENCKISER (UK) LIMITED et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
 - ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 24.10.2003	Date of completion of this report 15.07.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Persichini, C Telephone No. +49 89 2399-8617 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/01444

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-14 received on 07.06.2004 with letter of 02.06.2004

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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EXAMINATION REPORT**

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5-7,10,13,14
	No: Claims	1,3,8,9,11,12
Inventive step (IS)	Yes: Claims	
	No: Claims	1,3,5-14
Industrial applicability (IA)	Yes: Claims	1,3,5-14
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/01444

D2: US-A-5 788 155
D4: US-A-S 419 879
D5: DE-U-76 34 385 (enclosed)

1. The present set of claims does not meet the requirements of Art. 34(2)(b) PCT, as the amendments introduced to the claims go beyond the disclosure in the international application as filed:

It is expressed in original claim 1 that the freshening device comprises "a container which is thermoformed from a plastic material". On page 2, lines 20, 21 of the originally filed documents it is said "that the device is lightweight". Original claim 3 further defines an embodiment of the device "in which the base is integrally formed with the container", which embodiment is shown in original Fig. 4. Thus, the originally filed documents disclose an embodiment exhibiting the base integrally formed with the container "wherein the container and base are both thermoformed from a lightweight plastic material".

However, an embodiment "wherein the container and base are both thermoformed from a lightweight plastic material" without the base being integrally formed with the container cannot be deduced from the originally filed documents (the declarations on page 2, lines 20, 21 and on page 7, lines 9 to 11 both may also apply for a base formed of another material; the material is not mentioned in the figures). Consequently, amended claim 1 in conjunction with claim 2 and new claim 4 do not meet the requirements of Art. 34(2)(b) PCT.

2. Art. 6 PCT requires the individual claims and the set of claims as a whole to be concise. Rule 6.4(a) PCT defines any "claim which includes all the features of one or more other claims" to be a dependent claim and requires that such a claim shall include these features "by a reference, if possible at the beginning, to the other claim or claims and shall then state the additional features claimed". These requirements do not appear to be fulfilled in the present case as, although formulated as independent claims, claims 4 and claim 5 comprise all the features of independent claim 1. Furthermore, the subject-matter defined in claims 4 and 5 appears to be identical to the subject-matter defined in claims 2 and 3, respectively.
3. For examination with regard to Art. 33 PCT only the claims meeting the requirements of Art. 34(2)(b) PCT, ie claim 1 in conjunction with claim 3 and claims 5 to 14 (see item 1 of this report) are taken into consideration:

3.1 Document D2 discloses an air freshening or air purifying device comprising a container 20 (reference signs according to D2) which has an open side (a clear independent claim covers all the embodiments resulting from the dependent claims, consequently, no difference can be seen between the "open side" defined in present claim 1, which claim covers also the embodiment of present claim 8, and the "open side" disclosed in D2) defining a surface suitable for receiving a gel 14 (see also D2, column 4, lines 13, 14). The surface has therein a plurality of projections 19 defining recesses for retaining the gel. The device further comprises a lower end for supporting the container such that the gel receiving surface is in a substantially vertical orientation (the device of D2 can be arranged such that seam 21 forms the top). The container and the lower end which is suitable to form a base are both thermoformed from a lightweight plastic material (D2, column 3, lines 31 to 33).

Thus, no difference can be seen between the device disclosed in document D2 and the subject-matter of claim 1 in conjunction with claim 3 (claim 5). The requirements of Art. 33(2) PCT are not met.

3.2 Document D5 discloses an air freshening or air purifying device comprising a container 24 (reference signs according to D5), the container having an open side and defines a gel receiving surface (D5, page 7, line 8). The device further comprises a base integrally formed with the container and located at a lower end of the container for supporting the container such that the gel receiving surface is in a substantially vertical orientation (see D5, Fig. 2). The container and the base are both thermoformed from lightweight plastic material (D5, page 2, lines 7 to 9). Thus, the subject-matter of claim 1 in conjunction with claim 3 (claim 5) differs from the device disclosed in document D5 in that the surface has therein a plurality of projections defining recesses therebetween for retaining the gel. According to D5 fixing of the gel is supported by an open cover disposed over the surface.

However, it is well known in the art (see eg D4, column 6, lines 18 to 24) that a container with internal projections can even be reversed without spilling a gel contained therein.

Consequently, the replacement of the open cover by a plurality of projections provided on the surface is to be regarded as an obvious alternative to the open cover disclosed in document D5.

Claim 1 in conjunction with claim 3 and claim 5 do not meet the requirements of Art. 33(3) PCT with regard to documents D5 and D4.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/01444

5. In the light of the cited documents and the general knowledge of the skilled person and in view of the routine proceedings of a responsible engineer the dependent claims seem to contain nothing else than known or evident features. Thus, claims 6 to 14 do not meet the requirement of Art. 33(2) or (3) PCT.

CLAIMS:

1. An air freshening or purifying device comprising a container which is thermoformed from a plastic material,
5 the container having an open side defining a gel receiving surface, which surface has therein a plurality of projections defining recesses therebetween for retaining a gel, said device further comprising a base located at a lower end of the container for supporting the container
10 such that the gel receiving surface is in a substantially vertical orientation.
2. An air freshening device or purifying device as claimed in claim 1 in which the supporting means comprise a
15 separate base having a slot for receiving at least a portion of the perimeter of the container.
3. An air freshening or purifying device as claimed in claim 1 in which the supporting means comprise a base
20 section of and integrally formed with the container.
4. An air freshening or purifying device as claimed in any one of the preceding claims in which the container is formed with a circumferential rim.
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5. An air freshening or purifying device as claimed in claim 4 in which the rim has a width greater than the depth of the gel receiving surface.
- 30 6. An air freshening or purifying device as claimed in any one of the preceding claims further comprising a

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ART 34 AMDT

removable cover applied to the container to cover the gel receiving surface.

7. An air freshening or purifying device as claimed in
5 claim 4 in which the removable cover is made from a foil material which is heat sealed to the container.

8. An air freshening or purifying device as claimed in
10 claim 6 in which the removable cover is made from a plastic laminate which is heat sealed to the container.

9. An air freshening or purifying device as claimed in
any one of the preceding claims in which the container is filled with a gel composition.

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10. An air freshening or purifying device as claimed in claim 8 in which the gel composition is a fragrance.

11. An air freshening or purifying device as claimed in
20 claim 8 in which the gel composition is an insecticide.

12. An air freshening or purifying device as claimed in claim 8 in which the gel composition is an air purifying composition.

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13. An air freshening or purifying device substantially as hereinbefore described with reference to and as shown in the accompanying drawings.

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ART 34 AMDT